

**Sean Griffin**

---

**From:** Harold Cook <hc@haroldcook.com>  
**Sent:** Friday, January 21, 2011 3:34 PM  
**To:** Steve Scheibal; Amber Hausenfluck; Ray Martinez; David Edmonson; Debra Gonzales; Will Krueger; Jason Hassay; Lara Wendler; Micah Rodriguez; Dan Buda; Graham Keever\_SC; Sara Gonzalez; Oscar Garza; Gonzalo Serrano; Sushma Smith  
**Subject:** Voter ID Working Group: Complete set of files  
**Attachments:** Voter ID 09 exaggerated R claims.doc; Voter ID 09 vote suppression.doc; Voter ID 09 Voting Rights TPs.doc; THE VOTER ID BUREAUCRACY.docx; Voter ID 09 Summary of Facts from Studies.doc; Voter ID 09 Seniors.doc; Voter ID 09 rebuttals to R claims and myths.doc; Voter ID 09 GOP power grab.doc; Voter ID 09 No Voter Impersonation.doc; Hidalgo County Facts.doc; Voter ID 09 Editorial Opposition.doc; Voter ID 09 Polling Place Disenfranchisement.doc; Voter ID HseFloor Debate points and responses.doc; Voter ID Facts Voter Impersonation.pdf; Voter ID Women, students, less likely to have id.pdf; Voter ID Potential for discrimination.pdf

Folks:

The attached should represent all the sets of talking points and data already distributed at the staff meeting. I apologize for 3 of the files being in PDF form - I was unable to find the original files on my computer. THESE MATERIALS SHOULD BE CONSIDERED HIGHLY CONFIDENTIAL.

Thanks!

### **Voter ID Facts: Photo ID Threatens Seniors' Right to Vote**

**"Election fraud is virtually nonexistent in Texas. This (the Voter ID bill) would particularly hurt seniors, the kind of voters who vote most faithfully, and cast a chilling effect on the ability of many Texans to exercise their right to vote."** Bob Jackson, AARP-Texas Director during the 2007 Voter ID fight. AARP opposes proposed Voter Photo ID legislation in 2009.

**Note: Attempts to exempt voters of a certain age from Voter ID requirements effectively concede the problem with photo ID laws but wouldn't "fix" anything.** Any age exemption could be stricken because it may raise a constitutional equal protection problem. Besides, a proposed senior exemption could prove to be absolutely meaningless for affected voters, because those voters would presumably need to provide I.D. proving that the person is over a certain age to get the senior exemption

- The pro-Photo ID Texas Conservative Coalition Research Institute **admitted that 37% of Texans over the age of 80 did not have a driver's license.**
- The Georgia chapter of the AARP has estimated that about 153,000 Georgians older than 60 who voted in 2004 do not have government-issued photo ID. It has also estimated that 36% of Georgians over age 75 do not have a driver's license.
- **In 2006, the non-partisan Brennan Center for Justice found that 18% of citizens 65 and over have no photo ID.** For many seniors, getting a state-issued photo ID is not only costly and time-consuming, it is also impractical.
- An estimated 23% of persons aged 65 and over do not have a Wisconsin driver's license or photo ID (177,399 elderly persons), **and 70% of these are women.** 91% of the state's elderly without a Wisconsin driver's license are Anglo. (Source: [http://www.brennancenter.org/page/-/d/download\\_file\\_50902.pdf.](http://www.brennancenter.org/page/-/d/download_file_50902.pdf.) )
- Royal Masset, a former Political Director of the Republican Party of Texas, on the impact of Voter ID proposals on senior Texans: **"When**

**voting in America is only allowed to healthy and wealthy people then the America I know is far sicker than my (91 year old) mother." *Quorum Report*, 4-23-07**

- **Elderly voters, who are less likely to have photo ID and have difficulty getting to the polls, could be denied the right to vote a regular ballot with only a valid voter registration card - like they always have.** And given the confusion this would cause at the polling place, they would be less likely to go back home, search for ID, then return to vote.
- **Many elderly and disabled voters cast ballots by mail, which does not require a photo ID.** Passage of a photo ID law would establish different criteria for voting by mail and voting in person.

### **Rebuttals to GOP Claims and Myths About Photo Voter ID**

**GOP Claim:** The Supreme Court decision upholding the Indiana Photo ID law validated Photo Voter ID laws and proved they are not discriminatory or unduly partisan.

**Rebuttal:** Even the appellate judge who upheld the Indiana law wrote in his opinion that the law harmed Democrats, and to the extent the case the Supreme Court upheld the law because there had been no harm demonstrated to actual voters, we now have evidence that there has been disenfranchisement of voters in Indiana.

- **We now know that Indiana's law has actually disenfranchised real citizens. In contrast, no party or *amicus* cited even one case of impersonation at the polls in Indiana to the Supreme Court. In fact, more real Hoosiers have been disenfranchised by the law in the last two years than the number of reported cases of impersonation at the polls cited to the Supreme Court - from anywhere in the country - in the last two decades.** For example, in limited-turnout local elections in Marion County, Ind. in 2007, 32 voters cast ballots that could not be counted because of the voter ID law. **Moreover, these were long-time voters: 14 of them had previously voted in at least 10 elections.** <http://www.brennancenter.org/page-/Democracy/ %20ID-related%20stats.pdf>
- **"No doubt most people who don't have photo ID are low on the economic ladder and thus, if they do vote, are more likely to vote for Democratic than Republican candidates. Thus the new law injures the Democratic Party by compelling the party to devote resources to getting to the polls those of its supporters who would otherwise be discouraged by the new law from bothering to vote."** Federal Appellate Judge Posner, in his opinion (MARION COUNTY ELECTION BOARD, *et al.*) upholding the Indiana photo ID law.
- **For a detailed analysis and response to the facts presented in the Indiana Supreme Court case, see:**  
<http://www.truthaboutfraud.org/pdf/CrawfordAllegations.pdf>

**GOP Claim:** Voter ID proposals are bipartisan and serve the public interest by protecting the integrity of the ballot. The Commission on Federal Election Reform, co-chaired by former President Jimmy Carter and former

Secretary of State Jim Baker, supported laws that require voters to show a photo ID before voting.

**Rebuttal:** In the days after the release of the commission's report, **President Carter and former Secretary Baker stated in an op-ed in the New York Times that their intent had been misconstrued and clarified that until we have universal registration, we cannot make having such an ID be a condition of voting.** (Source: Jimmy Carter and James A. Baker III, "Voting Reform Is in the Cards," The New York Times, Sept. 23, 2005 (op-ed), [www.nytimes.com/2005/09/23/opinion/23carter.html?pagewanted=print](http://www.nytimes.com/2005/09/23/opinion/23carter.html?pagewanted=print).

**GOP Claim:** Some studies show that turnout actually increased in states with photo ID and others show very few citizens do not have current photo ID, proof that photo ID laws do not and will not suppress voter participation.

**Rebuttal:** These studies rely on flawed methodology to come up with a rationale for the partisan GOP photo ID agenda.

- A University of Missouri "study" often cited by Republicans compared turnout between the 2002 and 2006 election cycles and allegedly "proved" photo ID had no effect on turnout because turnout was higher in 2006 after the Indiana photo ID law was passed. **As any political hack knows, turnout varies between election cycles based on enthusiasm, candidates, and numerous other factors.** A more valid analysis would compare states with Photo ID requirements against those without, over a period spanning several election cycles or the same national election cycle.
- A Heritage Foundation "study" by Hans von Spakovsky (a photo ID advocate and the former DOJ political appointee who had a hand in overruling career DOJ staff objections to the Texas 2003 redistricting plan and the Georgia photo ID law) attempted to "prove" photo ID laws had no affect on turnout because turnout in Photo ID states, and especially turnout among African Americans, was higher in 2008 than in 2004. **DUH! Comparing turnout in 2004 to the excitement of 2008 is like comparing winter in Alaska to winter in Key West, and has everything to do with the Obama campaign and nothing to do with photo ID.**
- Another study involved a survey of 2,000 randomly sampled voters in three states (Indiana, Maryland and Mississippi) that found that roughly 1.2% or only 24 (weighted) people in the sample do not have

acceptable photo IDs. As any pollster knows, the voters least likely to answer a survey are the very people who would not have a phone, do not own a home, and do not have a photo ID. However, even that 1.2% figure, although out of line with other studies, would mean 100,000 voters out of 9.4 million registered voters in the three states, enough to swing some close elections, especially in certain areas.

**GOP Claim:** Without a photo ID law, elections could be stolen by “double voting” and voting by dead people, non-citizens or felons and we’d never know it.

**Rebuttal:** Independent studies by journalists, academic institutions, and government agencies have found no merit in these wildly exaggerated claims. (see handout on “Exaggerated Voter Fraud Claims Drive GOP Voter Photo ID Agenda”)

**GOP Claim:** There are no voter impersonation reports because there is no photo ID law.

**Rebuttal:** Yes, and there is no pot of gold because there isn’t a map to the end of the rainbow. Aside from the obviously flawed circular logic inherent in this “argument,” voter impersonation in states with and without photo ID is virtually non-existent.

**GOP Claim:** You need a photo ID for almost everything in life today, from cashing a check to boarding a plane to renting a movie at Blockbuster, so a photo ID should be required for voting. In the Indiana case, the state argued: *“The record is replete with examples of other circumstances—some involving the exercise of constitutional rights—where citizens cannot function on a daily basis without government-issued photo identification.”*

**Rebuttal:** It is simply not true that citizens “cannot function on a daily basis” in the specified areas without government-issued photo identification, or that photo ID is required for these activities.

- **Enter federal courthouse:** mostly but not entirely true. Though some courthouses may indeed require photo identification, not all do. Repeated calls to the Supreme Court, for example, have confirmed that photo identification is not necessary to enter the Supreme Court building.

- **Travel by airplane:** not true. See *Gilmore v. Gonzales*, 435 F.3d 1125, 1129-30, 1133 (9th Cir. 2006) (“The identification policy requires airline passengers to present identification to airline personnel before boarding or be subjected to a search that is more exacting than the routine search that passengers who present identification encounter.”); FAA Security Directive 96- 05(1)(C).
- **Cash checks:** not true. Check-cashing services will allow individuals to cash checks without photo ID, but may charge more for the service. (Source: *Check-Cash Service Fees on Rise*, San Jose Mercury-News, Aug. 22, 1997). Moreover, some automated ATMs allow customers to cash checks without photo ID. (Source: *Kiosk Cashes Checks, and Also Takes its Cut*, St. Petersburg Times, July 7, 1997)
- **Rent movies at Blockbuster:** not true. All you need is your Blockbuster card, not a photo ID. And Several chains now offer DVD rental at unmanned kiosks, where no photo identification is required.(Source: *Blockbuster Tries Out Video Rental Kiosks*, L.A. Times, 11- 22-07)
- **Marriage license:** not true. Several states — including Indiana — will issue a marriage license without requiring photo ID. (See, e.g., Ind. Code § 31-11-4-6)
- **Drive a car:** not true. Several states authorize driver's licenses without a photograph for reasons including a religious objection, (see, e.g., Ark. Code § 27-16-801(b)(2); Minn. Stat. § 171.071)
- **Stay in a hotel:** not true. Many hotels will rent a room using only a credit card.
- **Buy alcohol:** not true (as an absolute rule), not even in Texas. In fact, at least as of July 2007, only one state (Tennessee) requires every customer, no matter how old, to show ID to purchase alcohol. (Source: *States Get Creative in Fight Against Underage Drinking*, USA Today, July 19, 2007, at 1A; see also, e.g., Texas Alcoholic Beverage Commission, Age Verification, <http://www.tabc.state.tx.us/leginfo/ageVerify.htm>.)

### **Voter ID Facts: Photo ID Laws = Vote Suppression**

**"At the same time, the Court acknowledged the undeniable fact that voter ID laws can burden some citizens' right to vote."** Former Republican Attorney General Michael Mukasey, addressing DOJ attorneys who deal with election crime issues after the Supreme Court rules on the Indiana Photo ID law.

**"As more information becomes available about the administration's priority on combating alleged, but not well substantiated, voter fraud, the more apparent it is that its actions concerning voter ID laws are part of a partisan strategy to suppress the votes of poor and minority citizens."** Joseph Rich, former Chief of the U.S. Department of Justice Voting Section, McClatchy Newspapers, 4-19-07

#### ***Voter Turnout Studies***

- **We now know that Indiana's law has actually disenfranchised real citizens.** In contrast, no party or *amicus* cited even one case of impersonation at the polls in Indiana to the Supreme Court. In fact, **more real Hoosiers have been disenfranchised by the law in the last two years than the number of reported cases of impersonation at the polls cited to the Supreme Court - from anywhere in the country - in the last two decades.** For example, in limited-turnout local elections in Marion County, Ind. in 2007, 32 voters cast ballots that could not be counted because of the voter ID law. **Moreover, these were long-time voters: 14 of them had previously voted in at least 10 elections.** <http://www.brennancenter.org/page/-/Democracy/ %20ID-related%20stats.pdf>
- A study of the 2004 presidential election by scholars at Rutgers and Ohio State Universities for the bipartisan Federal Election Assistance Commission found that **Voter ID laws suppress turnout - especially among the elderly, African Americans and Hispanics who tend to vote Democratic.** States with voter I.D. laws had an overall turnout reduction of 3%, a figure that reached 5.7% among African Americans and 10% among Hispanics.
- A recent Brown University study reports that U.S. states that require voters to present identification before casting ballots have lower levels of political participation. From 1996-2004, voter I.D. policies reduced

Asians' registration and diminished voter turnout by blacks and Hispanics, by about 14 percent and 20 percent respectively. **The net reduction in minority voting in these states in 2004 was more than 400,000 votes.** The effects were similar for persons with less than a high school education and less than \$15,000 income, tenants, and recent movers. While persons with these characteristics are less likely to participate in civic affairs regardless of their state of residence, they experience an additional reduction in participation relative to others in voter I.D. states.

<http://www.sciencedaily.com/releases/2008/01/080107110356.htm>

**Note:** Voter ID advocates have advanced "studies" attempting to show Voter ID laws do not suppress turnout. One University of Missouri "study" compared turnout between the 2002 and 2006 election cycles. As any political hack knows, turnout can vary radically between election cycles based on enthusiasm, candidates, and other factors. A more valid analysis would compare states with Photo ID requirements against those without, over a period spanning several election cycles or the same national election cycle.

***Studies: Those Least Likely to Have Photo ID Are Vote Suppression Targets***

- **"Voter ID" laws suppress turnout because the working poor and senior citizens are less likely to have a photo ID or the time or ability to get one.** A 2006 study by the nonpartisan Brennan Center at NYU Law School found that **25% of African Americans have no government-issued photo ID, nor do 18% of seniors 65 and over or 15% of those who earn less than \$35,000/year.**
- **Even the Texas Conservative Coalition Research Institute admitted that 37% of Texas residents over the age of 80 did not have a driver's license.**
- The Georgia chapter of the AARP has estimated that about 153,000 Georgians older than 60 who voted in 2004 do not have government-issued photo ID. It has also estimated that 36% of Georgians over age 75 do not have a driver's license

- An estimated 23% of persons aged 65 and over do not have a Wisconsin driver's license or photo ID. 177,399 elderly persons 65 and older don't have a driver's license or a state photo ID, **and 70% of these are women.** (Source: [http://www.brennancenter.org/page/-/d/download\\_file\\_50902.pdf](http://www.brennancenter.org/page/-/d/download_file_50902.pdf). The Driver License Status of the Voting Age Population in Wisconsin by John Pawasarat, University of Wisconsin-Milwaukee, June 2005)
- The Wisconsin study fund that the numbers of nonwhites without photo ID differed dramatically from the numbers of Anglos
  - **52% of nonwhite residents 18+ (compared to 17% of white residents)**
  - **78% of black men 18-24 (compared to 36% of white men 18-24)**
  - **63% of Hispanic women 18-24 (compared to 25% of white women 18-24)**

### Voter ID Talking Points: Voting Rights

**“The vote is the most powerful instrument ever devised by man for breaking down injustice and destroying the terrible walls that imprison men because they are different from other men.” President Lyndon B. Johnson, signing the Voting Rights Act**

- **Photo ID legislation is a fraud. No one has presented or documented a single case of “voter impersonation” – the only type of “voter fraud” this legislation would address.**
- **Voting is a right. Photo ID legislation proposes an extra hurdle for many Texans that is reminiscent of the poll tax.** The working poor and senior citizens are less likely to have a photo ID - or the time or ability to get one, and a “free” ID is not free – it requires a trip to a DPS office to sign an affidavit – and for many Texans that takes time and money.
- **Negotiating an “acceptable” Voter ID bill is like negotiating the price of a poll tax.**
- A Wisconsin study fund that the numbers of nonwhites without a driver’s license photo ID differed dramatically from the numbers of Anglos
  - **52% of nonwhite residents age 18+ (compared to 17% of white residents)**
  - **78% of black men 18-24 (compared to 36% of white men 18-24)**
  - **63% of Hispanic women 18-24 (compared to 25% of white women 18-24)** (Source: The Driver License Status of the Voting Age Population in Wisconsin by John Pawasarat, University of Wisconsin-Milwaukee, June 2005)
- The study of the 2004 presidential election prepared by Rutgers and Ohio State Universities for the Federal Election Assistance Commission showed that **states with voter I.D. laws experienced turnout reduction that reached 5.7% among African Americans and 10% among Hispanics.** After the EAC report was released “unofficially,” it was suppressed by Bush administration appointees

for partisan reasons, as was a Department of Justice staff finding that recommended federal a Voting Rights objection be filed against a Georgia Voter ID bill that was ruled unconstitutional and is now on appeal.

- The “unstated” suggestion that non-citizen Hispanics may be voting in large numbers is a scare tactic not supported by facts. There is no documentation of systematic voting by non-citizens, and as a practical matter, **it is absurd to think that non-citizens would risk being identified and subjected to deportation by voting.**

HIGHLY CONFIDENTIAL - ATTORNEYS' EYES ONLY

## **Voter ID Debate Points: What Republicans Will Say and Why They Are Wrong**

The simplest message in a debate is often **NOT** the correct or honest one. There is no question that the Republican message on Voter Photo ID is simple and, on the surface, appealing – *“A voter should show a photo ID to prove who they are when they vote just like we do when we rent a movie or get on an airplane. A photo ID law will improve the integrity of our elections.”* The problem is that this simple message is dishonest and hides a deliberate effort by Republican politicians to abuse our voting system to tighten their weakening grip on political power in Texas.

Earlier this session, the Texas Senate conducted a 23 hour hearing on Voter Photo ID. The Republican majority engineered the manner and timing of the hearing so that much of the substantive debate occurred between 11 pm and 4 am. The following analysis reviews the substantive major points put forth by Republicans to justify a Voter Photo ID requirement and provides factual, substantive rebuttal.

### **False Claim – Voter Fraud is widespread so we must act to protect the integrity of our elections.**

**Fact:** Voter Impersonation, the only kind of Voter Fraud addresses by Photo ID laws, is so rare that it is virtually non-existent.

- In 2005-2006, Texas Republican Attorney General Greg Abbott conducted a high profile pursuit of “voter fraud,” but a May 18, 2008, analysis by the *Dallas Morning News* reported that Abbott’s efforts produced only 26 prosecuted “voter fraud” cases, **and not one case involved voter impersonation.** 18 of the cases involved technical violations when eligible voters cast legitimate votes by mail and the remaining eight cases were isolated local cases covered by current law.
- **In all the briefs submitted to the Supreme Court by the State of Indiana and Photo ID advocates, there is not a single proven example of voter impersonation at the polls.** Out of 400 million general election votes cast nationwide from 2000-2006, the briefs cite one attempt at impersonation that was thwarted without a photo ID requirement, and nine allegations of impersonation that might have been due to clerical error – and none in Indiana.

[http://brennan.3cdn.net/45b89e6d14859b0f8e\\_i2m6bhcv9.pdf](http://brennan.3cdn.net/45b89e6d14859b0f8e_i2m6bhcv9.pdf)

**False Claim – Most people already have a Photo ID, so it's no big deal.**

**Fact:** Although most people take having a photo ID for granted, many Texans do not, and those who do not are more likely to be elderly, seniors, women, people of color, and the working poor, according to numerous academic studies.

- A 2006 study by the nonpartisan Brennan Center at NYU Law School found that **11% of Americans have no government-issued photo ID**, nor do 25% of African Americans, 18% of seniors 65 and over, or 15% of those who earn less than \$35,000/year. (Source: Citizens Without Proof, A Survey of Americans Possession of Documentary Proof of Citizenship and Photo Documentation, Brennan Center for Justice, New York School of Law. November 2006)
- Even the Texas Conservative Coalition Research Institute says 37% of Texas residents over the age of 80 did not have a driver's license.
- **Documents obtained recently from the Texas Secretary of State indicate that 8% of those who registered to vote after January 1, 2006 did not have a driver's license or Social Security number to enter on the voter registration form. Eight percent of Texas' 13.57 million registered voters is approximately 1,080,000 voters.**

**False Claim – Our bill includes provisions that will let people who don't have a driver's license get an ID for free.**

**Fact:** There is no free ID, because it costs money to get documents needed to get a photo ID and get to locations where they are available.

- At the Senate Committee of the Whole hearing on the Voter ID bill, nationally recognized experts, including Tova Wang of Common Cause and former Justice Department official Dr. Toby Moore, testified that **there is no free ID**, citing the cost of documentary proof required to get a photo ID (\$22 for a Texas birth certificate), the cost of transportation for those who don't drive, lost wages for hourly workers who have to go to various agencies during working hours to get documents and obtain ID, etc.
- At the same hearing, Senator Mario Gallegos presented maps that show there are no Texas DPS locations that issue driver's licenses inside Loop 610 in Houston or the 820 Loop in Ft. Worth, and only one in the city of Dallas, a fact that would make getting a photo ID costly and time consuming for many inner city residents.

- Senate Bill 362 only provides a so-called “free ID” for those who swear the photo ID is for voting purposes only.

**False Claim – Photo ID requirements were passed in Indiana and Georgia and voter turnout went UP!**

**Fact:** The studies that claim photo ID laws cause higher turnout rely on flawed methodology to come up with a rationale for the partisan GOP photo ID agenda.

- Every political professional and every honest political scientist knows that attributing turnout variations between election cycles to a single factor is extremely problematic, because turnout varies from election to election depending on enthusiasm, the candidates, the amount of resources spent in the campaign and numerous other factors.
- A University of Missouri “study” is cited by Republicans who claim a turnout increase in Indiana in 2006, compared to 2002, was due to a new photo ID law. Likewise, a Heritage Foundation “study” by the infamous Hans von Spakovsky (link to LSP reports) claims photo ID laws are the reason for higher turnout in Indiana and Georgia, especially among African Americans, in 2008 than in 2004.
- The 2006 Indiana conclusion ignores the impact of intense campaign activity in that state’s Governor’s race and the 2006 Democratic push to take back Congress; and the 2008 conclusion ignores the impact of the Obama candidacy and competitive campaigns at the top of the ticket that resources in those two states for the first time in years.
- **Comparing 2008 turnout in Texas to 2004 turnout, the number of votes cast in the general election in Texas increased by over 600,000, and increased by over 2 million votes in the 2008 Democratic primary. Using the same logic behind the bogus claims of Voter ID advocates, one could conclude that Texas turnout increased because the Voter ID bill was defeated in 2005 and 2007.**

**False Claim – The only ones opposing Voter Photo ID are partisan Democrats.**

**Fact:** The Republicans stand alone in their pursuit of their Voter Photo ID vote suppression agenda, as the bill is opposed by respected nonpartisan organizations and editorials in every major Texas newspaper.

- **AARP, the League of Women Voters, Common Cause, the NAACP, LULAC, MALDEF, and others testified in opposition to**

the Voter ID bill at the recent Senate hearing, as they have in 2005 and 2007.

- ‘In practice, no one has ever shown that Texas has even a minor problem with ineligible voters casting ballots. Before they vote they have to register, and at registration they have to present identification. And voter fraud already is illegal. But in Texas and other states, some Republicans hope voter ID bills help suppress Democratic voting.’

*Austin American Statesman editorial, 1-15-09*

“So far, we don't like what we see. In this case, dropping the two-thirds vote would clear the way for the Senate to consider incendiary, unnecessary legislation that would require voters to present a photo ID before casting a vote.” *Dallas Morning News editorial, 1-15-09*

- GOP state senators spoiled the session kickoff last week with a bare-knuckled power play. The GOP touts voter ID as a preventative for Election Day voter fraud; Democrats counter that impersonation of registered voters at the polls is rare and has not been documented in significant numbers. Several studies have shown that such laws discourage turnout among the elderly, the poor, Hispanics and blacks, groups who tend to vote Democratic and have less access to picture identification.” *Cheap Shot”...Houston Chronicle editorial, 1-17-09*
- “this week's move to circumvent the traditional two-thirds rule for legislation requiring voters to have government photo identification was such a bad move.” *San Antonio Express News, 1-16-09*
- “The real reason some Republicans want a voter ID law: If mandated, it might well discourage poor, aged and minority voters — a conclusion drawn partially by the non-partisan League of Women Voters.” *Waco Tribune Herald editorial, 1-16-09*

**False Claim – A voter Photo ID requirement in Texas will not cost taxpayers any additional money.**

**Fact:** Implementing a voter Photo ID bill will likely cost millions of dollars, based on fiscal notes from previous Voter ID legislation and nonpartisan expert testimony.

- The fiscal note for HB218, the 2007 Voter ID bill, was \$671,110, the amount the DPS would not collect in fees for free photo ID cards. (<http://www.legis.state.tx.us/tlodocs/80R/fiscalnotes/html/HB00218S.htm>)

- The Senate Finance Committee added a rider to the state budget that would give the Secretary of State \$2 million for “Voter Education” if a Voter ID bill is passed, a number that is probably too low, and the costs to the state do not include the costs this bill would likely impose on local government.
- According to the testimony of Dr. Toby Moore, a former Justice Department official who has studied the Indiana law and actually reviewed the Georgia law while at the Department of Justice, the State of Texas will almost certainly have to spend additional funds in order to comply with the Voting Rights Act. In addition to providing free ID's at current locations, the State will likely have to add more accessible locations and hours, educate thousands of poll workers and the voting public about new ID requirements, develop and prepare accurate data on the effect of the new requirements for submission and review under the Voting Rights Act, and defend the law against potential legal challenges.

**False Claim – The US Supreme Court approved Indiana’s Voter Photo ID plan, so the Texas plan is safe from legal challenge.**

**Fact:** The Indiana case was a “facial challenge” that did not involve claims that might be filed under the Voting Rights Act or claims based on fact questions related to harm a proposed photo ID law might present to any particular ethnic, racial or age group. For that reason, the decision did not close the door to challenging a Texas photo ID law, if one is enacted. Even the appellate judge who upheld the Indiana law wrote in his opinion that the law harmed Democrats, and to that extent the case the Supreme Court upheld the law because it said no harm to actual voters had been demonstrated, we now have evidence that there has been disenfranchisement of voters in Indiana.

- **We now know that Indiana’s law has actually disenfranchised real citizens. In contrast, no party or *amicus* cited even one case of impersonation at the polls in Indiana to the Supreme Court. In fact, more real Hoosiers have been disenfranchised by the law in the last two years than the number of reported cases of impersonation at the polls cited to the Supreme Court - from anywhere in the country - in the last two decades.** For example, in limited-turnout local elections in Marion County, Ind. in 2007, 32 voters cast ballots that could not be counted because of the voter ID law. Moreover, these were long-time voters: 14 of them had previously voted in at

least 10 elections. [http://www.brennancenter.org/page/-/Democracy/\\_%20ID-related%20stats.pdf](http://www.brennancenter.org/page/-/Democracy/_%20ID-related%20stats.pdf)

- “**No doubt most people who don’t have photo ID are low on the economic ladder and thus, if they do vote, are more likely to vote for Democratic than Republican candidates. Thus the new law injures the Democratic Party by compelling the party to devote resources to getting to the polls those of its supporters who would otherwise be discouraged by the new law from bothering to vote.**” Federal Appellate Judge Posner, in his opinion (MARION COUNTY ELECTION BOARD, *et al.*) upholding the Indiana photo ID law.
- For a detailed analysis and response to the facts presented in the Indiana Supreme Court case, see:  
<http://www.truthaboutfraud.org/pdf/CrawfordAllegations.pdf>

**False Claim – The Carter-Baker Commission recommended Photo ID laws. Senator Fraser and other Voter ID proponents stated on the Senate floor that the need for enhanced voter identification requirements is based largely on the findings Carter-Baker Commission on Federal Elections, a bi-partisan initiative organized by the American University’s Center for Democracy and Election Management (CDEM).**

**Fact: Voter ID supporters have misrepresented the Carter-Baker Commission findings.**

- In the days after the release of the commission’s report, President Carter and former Secretary Baker stated in an op-ed in the New York Times that their intent had been misconstrued and clarified that “***until we have universal registration, we cannot make having such an ID be a condition of voting.***” (Source: Jimmy Carter and James A. Baker III, “Voting Reform Is in the Cards,” The New York Times, Sept. 23, 2005 (op-ed), [www.nytimes.com/2005/09/23/opinion/23carter.html?pagewanted=print](http://www.nytimes.com/2005/09/23/opinion/23carter.html?pagewanted=print)).
- More recently, Dr. Robert Pastor, Director of the CDEM, cautions strongly against this approach, testifying before Congress last week (March, 2009) that:

*“...if (voter IDs) become the entire part of the solution, then they actually become the problem. The other parts to the solution include expanding access through an affirmative role by the states to provide free voter IDs and to expand the base of registered voters to take steps to insure there is no intimidation and also to examine other kinds of election fraud and take steps against them.”*

The CDEM has found that partisan posturing on the issue further serves to erode public confidence in our election processes. Efforts to “secure” elections based solely on tightening voter identification requirements without facilitating and funding acquisition of required identification will result in disenfranchisement. Furthermore, more significant threats to the system will continue unfettered.

THE VOTER ID BUREAUCRACY:  
Message for Opponents of New Barriers to Voting

Those opposed to passage of restrictive, regressive and duplicative requirements on voters should use a simple message:

*These requirements place new bureaucratic walls and endless red tape between voters and the ballot box. They will make it harder for all of us to vote. And that's bad for democracy.*

*Who is hurt? Women who are recently married or divorced and whose last name has changed, is in the process of changing, or whose address doesn't yet match their ID. College students whose IDs don't match their temporary addresses. Elderly folk with no IDs who, because of illness, infirmity or transportation barriers, can't get one. People who have lost their social security cards. People whose driver's licenses expire on election day. Minorities who have just moved. All of us who are weary of the endless red tape of government.*

*Why would responsible lawmakers propose new burdens on Texans? There is no evidence of voter impersonation. The reason, then: To get or keep power. The harder it is to vote, the less chance voters have to demand and get change.*

The message is designed to appeal to a broad audience. The suppression effects of restrictive voter requirements hit some harder than others. But voter ID may seem like simple common sense to many, and many of them may not be moved by a message that the requirements make it harder on certain "others."

Proponents rely on the simplicity of their message. "People should prove who they say they are before being allowed to vote." A great number of studies can be cited that show new ID burdens hit voter turnout hard. When it's harder to vote, fewer people vote. These studies should be used to reinforce and expand upon the basic message frame above.

In addition, all the difficulties faced by Texans who must deal with social security bureaucracies, driver's license offices, cities, towns or courthouses and birth certificates, transportation woes etc. should see that they now face

these frustrations simply to cast a vote. All the evidence of these bureaucratic hoops – limited hours at various bureaucracies, auto-answer voice-mail system, mail delays, complicated forms – reinforces the core message.

HIGHLY CONFIDENTIAL - ATTORNEYS' EYES ONLY

### **Voter ID Facts: Voter Impersonation – A Problem that Doesn’t Exist**

*“A person is more likely to be struck by lightning than he is to impersonate another voter at the polls.”* From *The Truth About Vote Fraud*, a study conducted by the Brennan Center, NYU Law School

### **Texas AG’s Voter Fraud “Investigation” Finds No Cases of Voter Impersonation**

- In 2005-2006, Texas’ Republican Attorney General Greg Abbott spent at least \$1.4 million tax dollars in a high-profile pursuit of “voter fraud,” **but he didn’t document or prosecute one case of voter impersonation, the only kind of “fraud” that would be affected by a voter ID bill.**
- **A May 18, 2008, analysis by the *Dallas Morning News*** reported that Abbott’s efforts produced only 26 prosecuted “voter fraud” cases, **and not one case involved voter impersonation.** 18 of the cases involved eligible voters casting **legitimate votes** by mail, but people collecting and mailing in ballots were prosecuted for technical violation. The remaining eight cases were localized, isolated voter fraud cases that required no legal changes for prosecution.

### **National Studies Show Voter Impersonation is the Rarest Form of Voter Fraud**

From 2001-2006, the U.S. Department of Justice has convicted fewer than 100 people of voter fraud – 86 to be exact - out of more than 275 million votes cast in that period, **and voter impersonation cases have been the rarest form of isolated cases of the few voter fraud cases reported.**

### **“Voter Fraud Examples” in Indiana Case Would Not be Stopped by Photo ID**

In briefing filed with the Supreme Court in the *Crawford v. Marion County Election Board* case, the State of Indiana and several of its allied amici failed to provide evidence that in-person impersonation fraud — the only misconduct that photo ID rules could possibly prevent — is a problem. Briefs submitted by the State of Indiana, the Bush administration, the

National Republican Party, members of Congress, and other allies contain more than 250 citations to reports of election problems.

- **Not one of the citations offered by Indiana or its allies refers to a proven example of a single vote cast at the polls in someone else's name that could be stopped by a photo ID rule.**
- Out of 400 million general election votes cast from 2000-2006, the briefs cite one attempt at impersonation that was thwarted without a photo ID requirement, and nine cases where impersonation fraud at the polls was suspected but not proven – that might have been due to clerical error. Not one of these cases occurred in Indiana.

[http://brennan.3cdn.net/45b89e6d14859b0f8e\\_i2m6bhcv9.pdf](http://brennan.3cdn.net/45b89e6d14859b0f8e_i2m6bhcv9.pdf)

Justin Leavitt, Brennan Center for Justice, NYU Law School, 12-31-2007